



House of Representatives

File No. 832

General Assembly

January Session, 2001

(Reprint of File No. 277)

Substitute House Bill No. 6126
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 31, 2001

AN ACT CONCERNING MODIFICATION OF CERTAIN DIVORCE AGREEMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-66 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) In any case under this chapter where the parties have submitted
4 to the court an agreement concerning the custody, care, education,
5 visitation, maintenance or support of any of their children or
6 concerning alimony or the disposition of property, the court shall
7 inquire into the financial resources and actual needs of the spouses and
8 their respective fitness to have physical custody of or rights of
9 visitation with any minor child, in order to determine whether the
10 agreement of the spouses is fair and equitable under all the
11 circumstances. If the court finds the agreement fair and equitable, it
12 shall become part of the court file, and if the agreement is in writing, it
13 shall be incorporated by reference into the order or decree of the court.
14 If the court finds the agreement is not fair and equitable, it shall make
15 such orders as to finances and custody as the circumstances require. If

16 the agreement is in writing and provides for the care, education,
17 maintenance or support of a child beyond the age of eighteen, it may
18 also be incorporated or otherwise made a part of any such order and
19 shall be enforceable to the same extent as any other provision of such
20 order or decree, notwithstanding the provisions of section 1-1d.

21 (b) Agreements providing for the care, education, maintenance or
22 support of a child beyond the age of eighteen entered into on or after
23 July 1, 2001, shall be modifiable to the same extent as any other
24 provision of any order or decree in accordance with section 46b-86.

25 Sec. 2. Subsection (a) of section 46b-86 of the general statutes is
26 repealed and the following is substituted in lieu thereof:

27 (a) Unless and to the extent that the decree precludes modification,
28 the court may order either party to maintain life insurance for the
29 other party or a minor child of the parties or any final order for the
30 periodic payment of permanent alimony or support or an order for
31 alimony or support pendente lite may at any time thereafter be
32 continued, set aside, altered or modified by said court upon a showing
33 of a substantial change in the circumstances of either party or upon a
34 showing that the final order for child support substantially deviates
35 from the child support guidelines established pursuant to section 46b-
36 215a, unless there was a specific finding on the record that the
37 application of the guidelines would be inequitable or inappropriate.
38 There shall be a rebuttable presumption that any deviation of less than
39 fifteen per cent from the child support guidelines is not substantial and
40 any deviation of fifteen per cent or more from the guidelines is
41 substantial. Modification may be made of such support order without
42 regard to whether the order was issued before, on or after May 9, 1991.
43 In determining whether to modify a child support order based on a
44 substantial deviation from such child support guidelines the court
45 shall consider the division of real and personal property between the
46 parties set forth in the final decree and the benefits accruing to the
47 child as the result of such division. After the date of judgment,
48 modification of any child support order issued before or after July 1,

49 1990, may be made upon a showing of such substantial change of
50 circumstances, whether or not such change of circumstances was
51 contemplated at the time of dissolution. By written agreement,
52 stipulation or by decision of the court, those items or circumstances
53 that were contemplated and are not to be changed may be specified in
54 the written agreement, stipulation or decision of the court. This section
55 shall not apply to assignments under section 46b-81 or to any
56 assignment of the estate or a portion thereof of one party to the other
57 party under prior law. No order for periodic payment of permanent
58 alimony or support may be subject to retroactive modification, except
59 that the court may order modification with respect to any period
60 during which there is a pending motion for modification of an alimony
61 or support order from the date of service of notice of such pending
62 motion upon the opposing party pursuant to section 52-50.

63 Sec. 3. This act shall take effect July 1, 2001.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Minimal

Affected Agencies: Judicial Department

Municipal Impact: None

Explanation**State Impact:**

Passage of the bill would result in minimal increased workload to the extent that individuals seek the assistance of the court in modifying the agreements as described in the bill. The court could not modify such agreements in the past. It is anticipated that this workload would be handled within the department's normal budgetary resources.

House "A" provides that the court may order either party to maintain life insurance or the other party or a minor child. While the amendment would result in cost to the parties, there would not be any additional fiscal impact to the state.

OLR Amended Bill Analysis

sHB 6126 (as amended by House "A")*

AN ACT CONCERNING MODIFICATION OF CERTAIN DIVORCE AGREEMENTS.**SUMMARY:**

This bill permits the Superior Court to modify, rather than only enforce, divorcing parties' written agreements for the care, education, maintenance, or support of children beyond their 18th birthdays. This is often referred to as "post-majority support."

It applies to agreements made on and after July 1, 2001 that have been incorporated or made part of divorce decrees. The bill specifies that existing criteria and procedures governing modifications apply, including the requirement that the party seeking the modification show a substantial change in circumstances.

The bill also allows judges to order divorced parties to maintain life insurance "for the other party or a minor child of the parties" unless their divorce decree precludes modification. By law, courts may include in divorce decrees an order directing one party to designate the other as beneficiary of his life insurance policy as a means of securing his alimony payment obligations. It is unclear under the bill whether the person ordered to maintain life insurance pursuant to a modification proceeding must purchase a policy insuring his ex-spouse or child or designate them as beneficiaries of his own policy.

It is also unclear whether the substantial change in circumstances criteria governing other divorce decree modifications will apply to modifications of orders to maintain life insurance.

*House Amendment "A" adds the life insurance provisions.

EFFECTIVE DATE: July 1, 2001

BACKGROUND

Divorce Agreements

Divorcing parties may establish through written agreements, stipulations, or court decisions items or circumstances that were considered at the time of that cannot later be changed through modification.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 33 Nay 7